REMARKS/ARGUMENTS

In the previous Office Action, independent claims 1, 10, 18, 23, 27, and 33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (USP No. 2002/0141544) in view of Stetson (US 6,552,614) and further in view of Miller (USP No. 2003/0046690). In light of Applicant arguments, the Examiner is now providing new grounds of rejection. Independent claims 1, 10, 18, 23, 27, and 33 are now rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (USP No. 2002/0141544) in view of Stetson (US 6,552,614) and further in view of Jost (US 7,251,820)

The Examiner argues that Browns fails to explicitly describe the memory as nonvolatile, but Stetson describes a cable modem having a non-volatile memory. The Examiner also argues that the combination of Brown and Stetson fails to teach configuring the operating system to operate the replacement component, but the Examiner in the Office Action argues that Jost discloses a "controller capable of automatically configuring set-top terminals purchased through a retail outlet and installed by consumers." (page 3, 3/4/09 Office Action)

Jost states, "whenever, a new set-top terminal (107) is added to the system, it is registered with the controller (112) so that it can be assigned the proper attributes for subsequent interaction with the system. These attributes, once assigned, are stored by the controller (112) for subsequent use in communicating with the terminal (107). As shown in FIG. 2, the system controller (112), with is typically located at a central head-end facility, may control a number of different regional headends (201)." (Column 5, lines 50-60)

Independent claims recite "configuring the operating system to operate the replacement component and report power characteristics to the upstream device." However, Jost only appears to configuring a controller "typically located at a central head-end facility" to control a new set-top terminal. There is not operating system configured to "operate the replacement component" and "report power characteristics to the upstream device." In Jost, the set-top terminal is the device that is new. No component within the set-top terminal is new or replaced. There is no operating system configured to operate any new component or report power characteristics to the upstream device.

The independent claims recite "obtaining parameter information comprising power characteristics of the component from nonvolatile memory; configuring the operating system to operate the component and report power characteristics to an upstream device; obtaining parameter information comprising power characteristics of a replacement component from nonvolatile memory; configuring the operating system to operate the replacement component and report power characteristics to the upstream device." It is acknowledged that a new terminal may be added to a cable modem network system, however replacing a terminal in a cable modem network does not require "configuring the operating system to operate the component and report power characteristics to an upstream device." By contrast, the independent claims recite a "replacement component" and "obtaining parameter information comprising power characteristics of a replacement component from nonvolatile memory; configuring the operating system to operate the replacement component and report power characteristics to the upstream device."

According to various embodiments, "In order to accommodate a new or different tuner, a new version of the operating system typically has to be introduced with the new hard coded characteristic information. However, introducing a new operating system version raises compatibility and compliance issues. Techniques of the present invention provide that a memory associated with the cable modem component, such as a tuner, is provided in a cable modem. According to various embodiments, the memory is a nonvolatile memory. As will be appreciated by one of skill in the art, nonvolatile memory is a general term including all forms of solid-state memory that do not have the memory contents periodically refreshed. Some examples of nonvolatile memory are read-only memory and flash memory. Another example of nonvolatile memory is random access memory that is powered with an independent power source such as a battery.

Characteristic information associated with the cable modem component such as an RF tuner, can be written onto a nonvolatile memory. In one example, the cable modem operating system can be configured to acquire tuner characteristic information from the nonvolatile memory. The operating system no longer needs to be hard coded with specific tuner characteristics or supplemented with additional code such as a tuner specific device driver. When a new tuner is selected for use with a current operating system, a nonvolatile memory associated with the tuner can be programmed and provided in the cable modem along with the tuner. A more general device driver can be used. No new version of the operating system is

required. The existing version of the operating system can access characteristic information associated with the tuner by reading the nonvolatile memory. Compliance and compatibility concerns are addressed by maintaining the same version of the operating system, without new software additions such as new device drivers." (page 6, line 17 – page 7, line 9)

Brown describes a system connected to a CATV headend. "Controller 60 employs the process shown in FIG. 2 for initializing system 12 of FIG. 1 and for selecting an initial power transmission level for transmitting of signals from system 12 to the CATV head end. Specifically, FIG. 2 shows a series of operational states through which the FIG. 1 DOCSIS compliant cable modem system 12 progresses during startup to become fully operational. Upon application of power to modem system 12 in step 250 of FIG. 2, controller 60 executes bootloader software uploaded from flash memory within unit 60 to set all modem components to their initial power on condition." [0016] Although bootloader software is uploaded from flash memory, it is unclear here whether parameter information comprising power characteristics of the component is obtained from nonvolatile memory as is variably recited in the independent claims. Brown only describes bootloader software uploaded but does not describe parameter information comprising power characteristics obtained from nonvolatile memory.

More specifically, Brown describes "downloading a Configuration File for modem system 12 from a remote TFTP (Trivial File Transfer Protocol) server using TFTP. The configuration file includes SNMP compatible data conveying threshold values defining warning zones near the minimum and/or maximum operational limits for the power level to be used in transmitting signals from system 12 to the CATV head end." [0019] Other values or default values are believed associated with an operating system and are provided in system memory, which is volatile memory. This is believed to be the conventional system described in the present application. In conventional systems, an operating system is hardcoded with default values. Default values are not stored on a nonvolatile memory.

CONCLUSION

In light of the above remarks above, all independent claims and associated dependent claims are believed allowable for at least the reasons noted above. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
Weaver Austin Villeneuve & Sampson LLP

/Audrey Kwan/

G. Audrey Kwan
Reg. No. 46,850

P.O. Box 70250
Oakland, CA 94612-0250
(510) 663-1100